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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 4506

13 **RODNEY GIN WILEY**
30556 Sleepy Hollow
Shingletown, CA 96088-9432

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **7335**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

21 2. On or about May 17, 1993, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 7335 to Rodney Gin Wiley (Respondent). The Pharmacy Technician
23 Registration was in full force and effect at all times relevant to the charges brought herein and
24 will expire on February 28, 2013, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
27 Consumer Affairs, under the authority of the following laws. All section references are to the
28 Business and Professions Code unless otherwise indicated.

1 4. Section 4300 of the Code states, in pertinent part:

2 (a) Every license issued may be suspended or revoked.

3 (b) The board shall discipline the holder of any license issued by the board, whose
4 default has been entered or whose case has been heard by the board and found guilty,
5 by any of the following methods:

6 (1) Suspending judgment.

7 (2) Placing him or her upon probation.

8 (3) Suspending his or her right to practice for a period not exceeding one year.

9 (4) Revoking his or her license.

10 (5) Taking any other action in relation to disciplining him or her as the board in its
11 discretion may deem proper.

12 5. Section 4301 of the Code states, in pertinent part:

13 The board shall take action against any holder of a license who is guilty of
14 unprofessional conduct or whose license has been procured by fraud or
15 misrepresentation or issued by mistake. Unprofessional conduct shall include, but is
16 not limited to, any of the following:

17

18 (h) The administering to oneself, of any controlled substance, or the use of any
19 dangerous drug or of alcoholic beverages to the extent or in a manner as to be
20 dangerous or injurious to oneself, to a person holding a license under this chapter, or
21 to any other person or to the public, or to the extent that the use impairs the ability of
22 the person to conduct with safety to the public the practice authorized by the license.

23

24 (k) The conviction of more than one misdemeanor or any felony involving the use,
25 consumption, or self-administration of any dangerous drug or alcoholic beverage, or
26 any combination of those substances.

27 (l) The conviction of a crime substantially related to the qualifications, functions, and
28 duties of a licensee under this chapter. The record of conviction of a violation of
Chapter 13 (commencing with Section 801) of Title 21 of the United States Code
regulating controlled substances or of a violation of the statutes of this state
regulating controlled substances or dangerous drugs shall be conclusive evidence of
unprofessional conduct. In all other cases, the record of conviction shall be
conclusive evidence only of the fact that the conviction occurred. The board may
inquire into the circumstances surrounding the commission of the crime, in order to
fix the degree of discipline or, in the case of a conviction not involving controlled
substances or dangerous drugs, to determine if the conviction is of an offense
substantially related to the qualifications, functions, and duties of a licensee under this
chapter. A plea or verdict of guilty or a conviction following a plea of nolo
contendere is deemed to be a conviction within the meaning of this provision. The
board may take action when the time for appeal has elapsed, or the judgment of

conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

6. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

7. Section 118, subdivision (b), of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

FIRST CAUSE FOR DISCIPLINE

(Criminal Conviction)

8. Respondent is subject to disciplinary action under section 4301, subdivision (l), in that he was convicted of a crime substantially related to the qualifications, functions, and duties of a pharmacy technician. The circumstances are as follows:

9. On or about September 17, 2012, in the criminal proceeding entitled *People v. Rodney Gin Wiley* (Super. Ct. Shasta County, 2012, Case No. 12-05782), Respondent pled nolo contendere to a violation of Vehicle Code sections 23152(b) (driving while having a .08% or higher blood alcohol content), and Vehicle Code section 23154(a) (being on probation for a DUI and driving while having a .01% or higher blood alcohol content), both misdemeanors. In addition, Respondent admitted two prior DUI convictions within ten years of the commission of these crimes. The circumstances of the crime are that on or about July 13, 2012, California Highway Patrol Officer Cregger was dispatched to the scene of an injury traffic collision. Witnesses indicated that Vehicle 1 (V1) was waiting to make a left hand turn and Vehicle 2 (V2) was waiting behind V1. Respondent was seen passing V2 on the left and then hitting V1 as it began to make its turn. Officer Cregger contacted Respondent who was lying on a gurney in the back of an ambulance. Upon contacting Respondent, Officer Cregger detected the strong odor of

1 alcoholic beverage emitting from Respondent's breath and person. He also noticed that
2 Respondent's eyes were red and watery, and his speech was slow, thick, and slurred. Respondent
3 stated he was on his way home from the Shingletown Bar and that remembered striking another
4 vehicle but could not remember how it happened. Respondent admitted to drinking three glasses
5 of whiskey that evening and stated that he felt the effects of the alcohol. Respondent voluntarily
6 submitted to a Preliminary Alcohol Screening which produced results of .218 % and .208 %
7 blood alcohol content. At the time of the incident, Respondent was on probation for another DUI
8 until June 8, 2013, with a condition that he not drive with any alcohol in his system.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Conviction of More than One Alcohol Related Crimes)**

11 10. Respondent is subject to disciplinary action under section 4301, subdivision (k), in
12 that he has been convicted of more than one misdemeanor involving the use, consumption, or
13 self-administration of any dangerous drug or alcoholic beverage, or any combination of those
14 substances. The circumstances are as follows:

15 a. On or about May 23, 2006, Respondent was convicted of a misdemeanor violation of
16 Vehicle Code section 23152(b) in Shasta County Superior Court Case No. 0605126.

17 b. On or about June 9, 2008, Respondent was convicted of a misdemeanor violation of
18 Vehicle Code section 23152(b) in Shasta County Superior Court Case No. 0804387.

19 c. On or about September 17, 2012, Respondent was convicted of misdemeanor
20 violations of Vehicle Code sections 23152(b) and 23154(a) in Shasta County Superior Court Case
21 No. 12-05782.

22 **THIRD CAUSE FOR DISCIPLINE**

23 **(Use of Alcohol in a Manner Dangerous or Injurious)**

24 11. Respondent is subject to disciplinary action under section 4301, subdivision (h), in
25 that on or about July 13, 2012, Respondent used alcohol to an extent or in a manner dangerous or
26 injurious to himself and the public, as set forth in paragraph 10, above.

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PRAYER

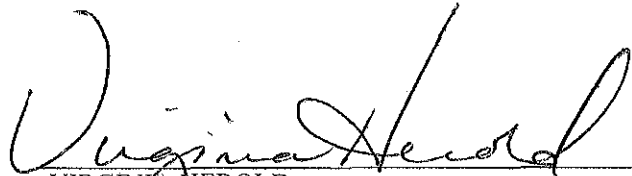
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacy Technician Registration Number TCH 7335, issued to Rodney Gin Wiley.;

2. Ordering Rodney Gin Wiley to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 3/6/13



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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